May 9, 1986

The Honorable James A. Abrahamson
Director, Strategic Defense Initiative Organization
Department of Defense
The Pentagon
Washington, D.C. 20301-7100

Dear General Abrahamson:

Thank you for the prompt response to my letter of April 9, 1986, regarding the expected structure and operation of the proposed Strategic Defense Initiative Institute (SDII). I appreciate the information you and your staff have provided to my office about this project. I do, however, have several specific concerns about the Defense Department's proposed handling of the Institute.

First, I object to the Defense Department's refusal to provide a copy of the assessment report required by OFPP Policy Letter 84-1 (April 4, 1984). This report is not an informal "working paper" of the Defense Department, but a formal document required under an existing, government-wide procedure to justify creating another Federally-Funded Research and Development Center (FFRDC). See OFPP Policy Letter 84-1, Sections 6(a) and (b)(1). A federal agency may not sponsor a new FFRDC absent this assessment. Since a copy of the assessment report is essential to a review of the Department's compliance with the applicable executive directives, I urge you to supply a copy.

Second, I object to the Defense Department's refusal to identify "certain prominent individuals in the science fields" whom Secretary Weinberger "has invited . . . to form
an organization that will submit a proposal for the SDII." I understand that these individuals have agreed to submit a proposal. Moreover, I am told they will be the only ones invited to submit a proposal to operate the SDII. If so, the public and the Congress have a right to know who has been extended the privilege of dealing with the federal government on a sole-source basis concerning a long-term contract.

If my information is incorrect and the Defense Department intends to consider a number of proposals to operate the SDII, please so state. In addition, please identify those persons and organizations which have already contacted the Department and indicated their interest in operating the SDII as well as those persons and organizations from which the Department is soliciting or has solicited SDII proposals or with whom the Department has conferred concerning the possibility of managing an FFRDC devoted to the Strategic Defense Initiative Program.

Third, I object to the type of involvement in the SDII's personnel decisions which SDIO is contemplating. Your letter states that SDIO plans to "work with the SDII in identifying needed personnel functions, and may review potential candidates for senior positions." I am told SDIO plans to participate in the selection of the SDII's chief executive officer, senior deputy and the "directors" of various technology groups--approximately a dozen senior staff persons in all. This proposed course of action, according to the Congressional Research Service, is unprecedented in the Department's relationships with the FFRDCs it sponsors.

Federally-Funded Research and Development Centers are designed to provide independent, objective scientific advice to the government. The Executive Branch directives state that they are to maintain independence even from their sponsoring agencies. See OFPP Policy Letter 84-1, section 6(c). The justification for this rule is central to the purpose of funding an FFRDC--such centers have to be able to deliver objective scientific advice, even findings which may be politically unpopular with their sponsors.

Scientific objectivity and independence from political considerations are particularly important for the Strategic Defense Initiative Program. This program has aroused serious academic debate as to its technological feasibility. Reputable scientists differ on even the most basic scientific issues, and an independent, objective body is needed to address the technological questions. A traditionally independent FFRDC could meet this need.
The foundation for an independent and objective research center is a director and staff well-insulated from political pressures. The quickest way to weaken an FFRDC's independence is to permit the sponsoring agency undue influence over the selection of the center's staff.

For these reasons, SDIO should reconsider its role in the hiring decisions to be made by the SDII. The Defense Department's participation should be confined to confirming or objecting to the single person proposed by the contractor to be the Institute's chief executive. It should not participate in the search for this candidate. Further, it should not participate in the selection of any other person to be employed by the SDII or in the identification of the Institute's personnel functions. These are matters best left to the contractor's independent judgment. In this way, the Department can help insulate the SDII from the politics surrounding the SDI Program.

Fourth, I am surprised by the Defense Department's tentative decision not to use outside experts to review the proposal(s) to operate the SDII. Our country's scientific capability is built upon the peer review process. It is our best means for ensuring high-quality scientific endeavors and is clearly appropriate in this context. An expert third-party review of the SDII's management proposal(s) will help ensure that the Institute is run in a way calculated to foster its independence, competence and cost effectiveness. In light of the millions of dollars that will be used to fund this Institute and the important work it will be doing, the need for a peer review to ensure a successful operation is too critical to ignore. I urge you to reconsider the Department's position on this matter.

Finally, I would like to express my concern over the Defense Department's tentative decision not to include any provisions in the sponsoring agreement to prevent a "revolving door" situation from developing. Unlike many other FFRDCs, the SDII will spend a significant portion of its resources on reviewing research proposals and reports produced by third parties. This review function creates an enormous potential for abuse. Absent contractual prohibitions, for example, an SDII employee could advocate additional funding for a particular technological proposal from a private firm and, six weeks later, accept a job with the firm that submitted the "winning" proposal. Contractual safeguards can be developed to stop such abuses. I urge you to consider doing so.
Establishing a new FFRDC devoted solely to the Strategic Defense Initiative Program is a sensitive, expensive and complex undertaking. Its success will depend upon the Institute's ability to gain the confidence of Congress and the public, and that confidence will depend upon the SDII's independence, integrity and quality of work. The Defense Department's unwillingness to share important, relevant information with Congress about the project, its unprecedented plans to affect the SDII's personnel, and its reluctance to obtain a peer review of the Institute's management proposal(s) or to address potential "revolving door" problems jeopardize the support and confidence the Institute needs. While I intend to pursue legislative remedies to some of these problems, I would welcome an effort by the Department to resolve them administratively.

I would appreciate your response to these concerns as soon as possible. If you have any questions, please have your staff contact Elise J. Bean of the Subcommittee's staff at 224-3682. Thank you for your assistance in this important matter.

Sincerely,

Carl Levin
Ranking Minority Member

CL:ejb
The Honorable Carl Levin  
United States Senate  
Hart Senate Office Building  
Washington, D.C.

re: Strategic Defensive Initiative Institute (SDII)

Dear Senator Levin:

Thank you for your letter dated 9 May 1986, in which you raise specific concerns about the organization and establishment of the Strategic Defensive Initiative Institute (SDII). I know our respective staffs have been working closely on this matter, and I welcome the opportunity to respond constructively to your further questions. I will respond to them in the order addressed in your letter.

1. In an effort to cooperate to the maximum effort possible, I have directed that your staff be provided with a copy of the internal assessment that was performed prior to the decision to establish a new federally funded research and development center (FFRDC), pursuant to OFPP executive branch policy. Please note that the assessment is an internal, executive branch document, and we ask that you respect its confidentiality.
2. Regarding the names of the individuals invited to form an organization and submit a proposal to form the SDII, your point is taken that the public and the Congress have a right to know who contracts with the government. The difficulty here, however, is that such disclosure would be entirely premature at this point, since there has been no commitment, legal or otherwise, that the invited proposal will be in fact be undertaken, or that it will be accepted if and when it is received. You will no doubt appreciate "chilling effect" that would result on the effective conduct of DoD business if the many persons with whom we have occasion to communicate were subject to becoming public figures or even congressional witnesses in the absence of any formal relationship. If and when we contract with this new organization, we will have no objection to disclosing to you the identities of the involved individuals at that time.

We have been contacted by a large number of interested companies and individuals in response to the series of published announcements of the Department's intent to establish the SDII. Those expressing interest in submitting a proposal have been advised that we will consider fully and fairly any proposals that are in fact received. However, most callers have indicated their disinclination to proceed when advised of the conflicts requirements that the SDII have no other SDI or SDI-related business, nor other clients who themselves have such. The only proposal received to date has been one from the Riverside Research...
Insititue to provide interim technical support until the SDII is effectively operational. We have responded that, should such a need become apparent prior to that time, we will consider the proposal.

3. Regarding the "type of involvement in the SDII's personnel decisions which SDIO is contemplating," I do not believe we have communicated clearly our intent. It is not the intent that the SDIO will be intimately involved with the SDII's hiring and personnel functions. As you rightly point out, an FFRDC is an independant, non-government organization responsible for its own management. At the same time, in order to properly carry out its technical support mission, it is imperative that the SDII personnel possess the highest professional qualifications. In addition, there will obviously be a close working relationship on a daily basis between the two organizations, since the SDII's existence and function are to provide the SDIO with needed technical support. Effective liaison between the top management of the two will be essential to fulfill this role.

Towards these goals, we feel it is appropriate that the SDIO have the opportunity to consider candidates selected by the SDII for the handful of very top management positions, specifically the institute's president and the heads of the several technical directorates. We agree with you that the SDIO should not
participate in the search for SDII's chief executive or in the selection of any other SDII employees. It is precisely our intent, as you suggest, that the Director of the SDIO simply be permitted to confirm or object to candidates for the SDII's chief executive. The additional SDIO role will be strictly limited to approving the persons proposed to head the SDII's several technical directorates. There will be no SDIO role whatever in the selection of any other personnel, nor in internal SDII review functions once these persons have been engaged.

I also think there has been a misunderstanding as to what we meant by SDIO "review of personnel functions" for the SDII. We have no intention of taking any role whatsoever in the day-to-day management of SDII personnel. By that phrase it was simply meant that the SDIO will need to identify initially to the SDII those areas ("personnel functions") in which technical support will be needed. Towards that end, it is anticipated that the SDII will be structured into technical directorates to correspond to those in the SDIO. This will facilitate an effective working relationship and provision of the needed technical support.

It may be that such arrangements have not obtained in the case of previous FFRDCs. However, each case should be judged on its own merits, and we believe that the arrangements that we have...
suggested are appropriate to this one. Your own staff has also stressed the critical importance of assuring the highest possible professional qualifications for key SDII personnel, given the national importance of the SDI program. We agree. In addition, the working relationship between the SDIO and the SDII is likely to be closer than in the case of other FFRDCs, due to the SDII's essential function of providing technical support to the SDIO, and effective exclusion of other work.

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I repeat that the SDIO does not intend to participate in actual search and selection of candidates. Its very limited role as identified above is intended solely to insure the highest professionalism and most effective working relationship for the SDII. There is no intent to "stack the deck" or otherwise assure a
predetermined view on the part of the SDII personnel, nor, incidentally, of the SDIO itself. It is simply not credible that reputable scientists will compromise their intellectual integrity in the manner you fear. I ask you to have more confidence that we will do our jobs fairly, and do them well.

I must also respectfully disagree with you that the SDI program has aroused "serious academic debate as to its technological feasibility." Any debate of this nature would be premature. As you know, SDI is a research program that is seeking objective data to enable our national authorities--Congress and the President--to make a decision on strategic defense in the 1990's. Most of the allegedly scientific criticism of the program has been made by persons outside of their respective fields, and in my opinion has been made on political rather than scientific grounds.

4. The issue of using outside experts to review proposals to operate the SDII was raised for the first time in your letter. We were not previously aware that this was an issue. I believe we have the appropriate resources and personnel within the SDIO to
best evaluate proposals for the SDII, those familiar with the status of the SDI research program, and the SDIO's particular needs for technical support, are in the best position to carry out that function.

We agree that the SDII should be run in a way calculated to foster its independence, competence, and cost-effectiveness. We do not, however, see any apparent problem in this regard: The SDII will have its own, independent management. Both that management, and the SDIO, will be concerned that the SDII be staffed with professionals of the highest qualifications. As to cost, pursuant to OFPP policy, we intend to incorporate appropriate monitoring provisions in the sponsoring agreement to insure that cost are reasonable.

A number of the comments in your letter carry a perhaps unintended implication that an almost adversary relationship should exist between the SDIO and SDII. It is important to keep in mind that the SDII is being established for a very limited purpose, that of providing scientific and technical support to the SDIO in the evaluation and integration of research. It is not intended to perform an oversight or unrelated analysis function, nor to be a policy group. Those functions in whole or part are properly the role of other organizations, such as your Subcommittee or the Congressional Office of Technology Assessment.
5. Our respective staffs have previously discussed the question of post-employment restrictions on SDII personnel. As your letter earlier points out, we should not be involved with the SDII's internal management and employment practices. As you know, an FFRDC is an independent, non-government organization, and is not legally subject to the post-employment restrictions that may obtain for certain federal employees. Since a number of these restrictions involve criminal penalties, we are unsure additionally, that we would be in a position to enforce them contractually. Imposing such restrictions may also carry a risk of transforming the sponsoring agreement with an FFRDC into a prohibited "personal services" agreement. Finally, it may also be that existing state law governing confidential and proprietary information or trade secrets may speak to your concerns. Finally, we doubt that so much of the SDII's functions will be devoted to reviewing research proposals as evaluating research results.

Nevertheless, your concerns for conflicts of interest and potential abuse of confidential relationships are legitimate. I have asked our legal counsel to review this area and to determine if any appropriate steps could be taken, including requesting that the SDII itself require certain conditions of employment. Upon further review, my staff will contact yours in order to discuss this issue.
Director, SDIO
Lieutenant General, USAF
John A. Abrahamson

Yours Truly,

partition debate in the newspaper. Running the risk of politicization and turning this matter into a
distraction directly between our respective offices, rather than
t sink our differences and continue a cooperative
I trust the above will serve to allay any such premature charges. I
readed "independence of Star Wars in jeopardy, Levin Chargees." It
was also released to the new media along with a press release
two offices, and on the very day I received your letter of 9 May,
back that in the middle of the continuing debate between our
marked no such a cooperative approach. We were somewhat taken
would like our these issues. I do think it would be helpful if we
you, I will make whatever appropriate asks for any putting you
I would like to reiterate our desire to cooperate fully with